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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JORGE TAPIA,

Defendant and Appellant.

D074895

(Super. Ct. No. FWV1500426)

APPEAL from a judgment of the Superior Court of San Bernardino County, Ingrid Abramson Uhler, Judge. Reversed in part; affirmed in part and remanded with directions.

Gregory L. Cannon, by appointment of the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Michael Pulos and Nora S. Weyl, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Jorge Tapia appeals from a judgment entered after a jury found him guilty of sodomy with a child 10 years old or younger (count 3), oral copulation of a child 10 or younger (count 9), and two counts of lewd acts upon a child (counts 4 and 8). The court sentenced Tapia to 25 years to life on count 3 and 15 years to life on count 9, with concurrent six-year terms on counts 4 and 8.

Tapia argues that under federal and state constitutional *ex post facto* principles, because the relevant, revised statute increased the punishment for his alleged acts, the jury's failure to consider whether the acts occurred after the effective date of the statute requires reversal of count 3, the sodomy charge, and count 9, the oral copulation charge. Tapia also raises several ancillary issues regarding these counts, which we address *post*. Tapia does not challenge counts 4 and 8.

The People make several concessions, including that count 3—the sodomy charge—should be reversed on *ex post facto* grounds. But they dispute whether count 9 must also be reversed. They argue that despite the lack of findings from the jury with respect to the time frame, the record shows beyond a reasonable doubt that the alleged acts occurred after the effective date of the new statute. We agree. Testimony during trial firmly established that the acts alleged in count 9 occurred after September 20, 2006, as required. Accordingly, we reverse with directions detailed *post*.

FACTUAL AND PROCEDURAL BACKGROUND¹

A. *Relevant Family Members*

Jane Doe is the victim, and Tapia is her uncle. C.C. is her sister, and Roxanne is her mother.² Tapia is the husband of Jane and C.C.'s father's sister. Tapia and his wife have three children.

At the beginning of the relevant time period, Tapia and his family lived in a house owned by Jane and C.C.'s grandparents. Near the end of 2006, Jane and her mother and sister moved into that same house. At that point, both families were living in the grandparents' home. Later, Tapia and his family moved out of that house to a new apartment. While the family lived with the grandparents, Roxanne worked during the daytime. Jane and C.C.'s grandmother was the girls' primary caretaker while Roxanne worked.

B. *2014–2015 Investigation*

In August 2014, Roxanne saw a text message on Jane's phone that she had sent: "He raped me." Jane told her mother she was referring to Tapia. Roxanne took her daughters to the Rancho Cucamonga Sheriff's station to alert them to Tapia's abuse. At this point, Jane had just started her junior year of high school.

¹ Because the jury did not reach a verdict on the counts relating to Jane Doe's sister, C.C., we omit discussion of the facts underlying those counts.

² We use first names and initials—Jane Doe and C.C. to refer to the victim and her sister, respectively, as well as Roxanne for their mother—intending no disrespect.

Deputy Sheriff David Smith interviewed Jane, who told him about two incidents—one at a movie theater and the other during the school day. Regarding the school-day incident, Jane said that when she was in first or second grade, Tapia took her and the other kids to school, but the two of them returned to Jane's grandparents' house together. There, "he stuck his penis behind" her and inserted it "in" her. Tapia may or may not have penetrated her vagina with his penis, but Jane had "a clear vision of his penis going behind [her]." In January 2015, Jane was interviewed for a second time at the Children's Assessment Center. There, she discussed an incident in a movie theater when she "was really young." In the theater, she was sitting next to Tapia when he forced her to perform oral sex on him. In this interview she also discussed in further detail the incident during the school day.

On the same day in January 2015, Tapia participated in two voluntary interviews with Sheriff's Detective Rafeal Ixco. In the initial interview, Tapia denied any sexual activity with Jane. But then his story changed. In the second interview, he admitted they had sexual contact when she was seven or eight years old. He also claimed that she initiated it. According to Tapia, there was one "adventurous" incident in which Jane came into his bedroom uninvited while he was lying on his bed, straddled his penis and grinded against his erect penis while kissing passionately. They both remained dressed, but his penis could feel her vagina through their clothes.

Later in the interview, Tapia admitted another incident. This time, after dropping off all the other children at school, he told Jane, who was seven or eight years old at the time, that she had forgotten something and took her back home. Once home, they both

took off all their clothes, they kissed with their tongues, and his penis touched her genitalia—but he insisted he never penetrated Jane's vagina, genitalia, or anus with his penis. Tapia also admitted to an incident at a movie theater. There, Jane, by her own initiative, climbed onto Tapia's lap and began "grinding on" Tapia.

In his statement, Tapia expressed remorse for his actions. "It was my mistake." At trial, however, Tapia testified he never acted inappropriately with Jane and never had any sexual contact with her. He unequivocally denied each of the specific acts and incidents referred to in his statement.

C. *Procedural Overview*

In June 2017, Tapia was charged by a second amended information with multiple counts and various offenses involving sexual abuse of a child, lewd act on a child, sodomy, oral copulation, and related allegations. At trial, Jane testified about several instances of sexual abuse by Tapia. She reported that Tapia would kiss her on the mouth and hug her aggressively by pulling her into him without letting her go. She also addressed specific incidents.

When Jane was in first or second grade, Tapia drove her and her cousins to school but the two of them returned home after dropping off the cousins. Once alone with Jane, Tapia engaged in sodomy by contacting her anus with his penis and applying pressure, causing her pain. Another incident occurred later, after Tapia's family had moved out of Jane's grandparents' house into their own apartment, and when Jane was in the third or fourth grade. While she was at Tapia's apartment visiting with her cousins, she was upstairs looking for her cousins when Tapia pulled her into his bedroom, using force. He

kissed her with his tongue, pulled her pants off, and put his mouth on her vaginal area. He "put his mouth on my whole entire vagina and was moving around with his tongue." The sexual activity did not last long because they were nearly interrupted by her cousins, whom Jane could hear coming up the stairs. Tapia forced her pants back on, and she quickly left. She did not tell anyone about what happened because she "was scared, just really scared." Jane also discussed other instances of sexual abuse, including oral sex at a movie theater and inappropriate sexual contact at a shoe store.

Tapia testified on his own behalf. He explained that he made false admissions to the investigator because he was fearful and believed that is what the investigator wanted him to say. He also feared that if he had not made the desired admissions, the investigator would have put his mother-in-law or another family member in jail. Several witnesses for the defense, including Jane's mother, testified they did not see inappropriate conduct and that the children, including Jane, were always supervised by other adults.

On June 19, 2017, the jury convicted Tapia on count 3 (Pen. Code,³ §§ 288.7, subd. (a) & 289, sodomy with Jane Doe); counts 4 and 8 (§ 288, subd. (a), lewd acts upon Jane Doe); and count 9 (§ 288.7, subd. (b) & 289, oral copulation with Jane Doe). The court declared a mistrial on the remaining counts and the allegation of multiple victims after the jury was unable to reach verdicts. Several weeks later, a prosecution motion to dismiss the remaining counts and the special allegation was granted. The trial court denied probation and sentenced Tapia to a term of 25 years to life on the principal count

³ All further statutory references are to the Penal Code unless otherwise indicated.

3 consecutive to a term of 15 years to life on count 9. Six-year terms were imposed on each of counts 4 and 8 concurrent with counts 3 and 9, respectively. The court also prohibited all visitation between Tapia and Jane Doe pursuant to section 1202.05 and issued a 10-year criminal protective order pursuant to section 136.2, subdivision (i).

DISCUSSION

A. *Relevant Legal Standards*

Ex post facto clauses in both the state and federal constitutions prohibit retrospective application of a statute that (1) becomes effective after the commission of a criminal act and (2) alters the definition of a crime or increases the punishment for that act. (*People v. Delgado* (2006) 140 Cal.App.4th 1157, 1163; see U.S. Const., art. I, § 9, cl. 3 [prohibiting Congress from enacting ex post facto laws], art. I, § 10 [applying prohibition to the states]; Cal. Const., art. I, § 9; see generally *Johnson v. United States* (2000) 529 U.S. 694, 701; *Lynce v. Mathis* (1997) 519 U.S. 433, 439.) The prosecution bears the responsibility of proving that the charged offenses occurred on or after the effective date of the relevant statute. (*People v. Hiscox* (2006) 136 Cal.App.4th 253, 256.) We review alleged ex post facto violations under the standard established in *Chapman v. California* (1967) 386 U.S. 18, 24 (*Chapman*), which requires any harmlessness to be shown beyond a reasonable doubt. (See *Hiscox*, at p. 261.) On appeal, when the jury was not instructed to find that an offense occurred on or after the effective date of a statute, we consider whether the evidence "leaves no reasonable doubt" the offense occurred after the effective date of the statute. (*Ibid.*, citing *Chapman*, at p. 24; see also *People v. Rojas* (2015) 237 Cal.App.4th 1298 (*Rojas*)). An ex post facto

violation resulting in an unauthorized sentence can be raised on appeal even where the defendant failed to object below. (*People v. Dotson* (1997) 16 Cal.4th 547, 554, fn. 6.)

B. *Reversal on Count 3 and Striking of the Unauthorized Prohibition of Visitation*

Before turning to the principal issues before us, which pertain to the oral copulation charged in count 9, we first address several concessions made by the People. First, they agree that the conviction on count 3, for engaging in sodomy with a child under 10, should be reversed on ex post facto grounds. The statute on which count 3 was based—section 288.7, subdivision (a) (the statute),⁴—became effective on September 20, 2006 (the statutory effective date). (Stats. 2006, ch. 337, § 9, pp. 18–19.) The statute substantially increased the punishment for conduct involving sexual assault, including sodomy on a minor, which it raised from three, six, or eight years for participating "in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger" (§ 289, subd. (j)), to 25 years to life for engaging in sexual intercourse or sodomy with a child 10 years old or younger (§ 288.7, subd. (a)).

Here, the information asserted that the acts alleged in count 3 were committed between October 23, 2004 and October 22, 2008. The trial court's instructions regarding section 288.7 did not specify that time frame or any other range, and the court did not provide any instruction relating to the jury's obligation to find that the relevant alleged

⁴ Both subdivisions of section 288.7 became effective on the same date and substantially increased the punishment for the relevant crime. We thus treat them the same in our analysis here except where indicated.

acts occurred on or after September 20, 2006. Likewise, the verdict forms did not request any factual findings with respect to the timing of the alleged acts.

Testimony at trial was not conclusive with respect to the date of the sodomy alleged in count 3, but it suggested that it may have been before September 20, 2006. For example, Jane indicated that the sodomy occurred when she was in first or second grade, and thus, given her age, it likely (but not certainly) took place before the statutory effective date. In his statement Tapia said that the acts occurred when Jane was seven or eight years old, a period that bridges before and after the effective date. Therefore, because it is plausible that a reasonable juror found Tapia guilty based on an act that occurred before September 20, 2006, the clear error presented here requires that we reverse on count 3.⁵

The People ask that we remand to allow the trial court to exercise its sentencing discretion at a new sentencing hearing. Tapia also requests that we remand for resentencing that would include counts 4 and 8 as well. We agree that new sentencing on remand is appropriate, as directed *post*.

Second, both parties agree the trial court improperly prohibited visitation between Tapia and Jane Doe under section 1202.05. The trial court relied on that statute to prohibit visitation, but it does not apply where the child victim has reached the age of 18 years at sentencing, which Jane has indisputably reached here. (See *People v. Scott* (2012) 203 Cal.App.4th 1303, 1323 (*Scott*)). Therefore, the trial court is directed to

⁵ Having so decided, we need not and do not discuss Tapia's alternative arguments with respect to count 3.

strike this visitation prohibition. As we discuss *post*, however, we do not disturb the criminal protective order issued pursuant to section 136.2, subdivision (i)(1), which prohibits Tapia from inter alia having personal, electronic, telephonic, or written contact with Jane Doe until August 10, 2027.

C. *Count 9*

1. *Ex Post Facto Principles Do Not Require Reversal.*

Tapia argues that count 9 should also be reversed on ex post facto grounds. He claims the evidence relating to the date of the alleged act is insufficient to make any findings beyond a reasonable doubt, emphasizing Jane's lack of credibility and Jane's mother's imprecise testimony on that point. Tapia further asserts that even if the evidence were entirely credible, we may not infer from testimony linking events to a particular grade in school that they occurred in any particular year. In response, the People maintain the evidence at trial clearly established that the act, which was alleged to have occurred at Tapia's apartment after he moved out of Jane's grandparents' home, must have occurred on or after September 20, 2006.

The information alleged the same date range on count 9 as it did for the sodomy count 3: October 23, 2004 to October 22, 2008. On this count too, the jury was not asked to make any factual findings about the time frame, and the court did not provide any instruction on the issue. Likewise, the statute's subdivision (b), the relevant subdivision for section 288.7, greatly increased the punishment for Tapia's conduct from three, six, or eight years to 15 years to life.

Unlike the sodomy count, however, the verdict form on count 9 specifically referenced "defendant's [apartment]" in the caption. At trial, Jane's mother testified that she, Jane, and C.C. moved into the grandparents' house at the end of 2006. Jane testified that after some time with both families living at the grandparents' house, Tapia and his family moved to an apartment. She also asserted that the oral copulation alleged in count 9 occurred after Tapia moved out from the grandparents' house, and that it happened at the apartment to which he moved. Jane discussed this incident in depth in her testimony, including her memory of details relating to the location of the assault in Tapia's bedroom in the apartment, such as the close proximity of the bed's footboard to the door to the hallway. Because testimony indicated that Jane did not move into the grandparents' house until the end of 2006, and that Tapia did not move out of the grandparents' house and into the apartment identified as the location of the oral copulation until some time later, we therefore conclude that beyond a reasonable doubt, the oral copulation alleged in count 9 occurred on or after September 20, 2006.

Tapia relies heavily on *Rojas, supra*, 237 Cal.App.4th 1298, but in fact it provides a helpful distinction. There the defendant was convicted of several counts of sexual abuse, including under the statute relevant here. As is common in cases of sexual abuse, the dates of the alleged acts could not be established with significant precision. (*Id.* at pp. 1306–1308.) The court reversed the conviction on count 2—based on engaging in sexual intercourse or sodomy with a child under 10—and found the record allowed for a reasonable doubt whether it was based on an act that occurred on or after the effective date of the new statute. (*Ibid.*) There, however, the evidence supporting any specific

time frame was insubstantial and tenuous at best: one pretrial statement made by the victim to an investigator that "the abuse began when she was 'three or four years old.' " (*Id.* at p. 1307.) At trial, the victim testified that she did not recall when the specific act occurred or when the abuse began. (*Id.* at pp. 1302–1303.) Otherwise, the record contained no evidence whatsoever that would allow the jury to conclude that the act occurred on or after the statutory effective date. (*Id.* at pp. 1306–1308.) Here, the testimony placing the date of the alleged act after Tapia's move to the new apartment provides strong and specific evidentiary support.

2. *Tapia's Ancillary Claims*

a. *Invalid Legal Theory/Instructional Error*

In closely related arguments, Tapia recasts his ex post facto claim under alternative theories, contending that he was convicted under an invalid legal theory because the date range in the information included a time period that preceded the effective date of the statute, and the jury was not instructed they must find that the acts occurred on or after the statutory effective date. (See *People v. Chun* (2009) 45 Cal.4th 1172, 1203 (*Chun*); *People v. Perez* (2005) 35 Cal.4th 1219, 1233.)⁶ He further asserts that the lack of an instruction addressing the requisite date range effectively reduced the

⁶ In *Chun*, for example, on which Tapia relies, the Supreme Court found the trial court erred when it permitted the defendant to be convicted of murder on a felony-murder theory without instructing the jury to make the requisite finding of malice. (*Chun, supra*, 45 Cal.4th at pp. 1203–1205.) But it also held that, given the specific evidence in the case, the error was harmless beyond a reasonable doubt because the jury's findings required a conclusion that the defendant willfully shot at a vehicle occupied by three people, which in turn amounted to finding malice. (*Ibid.*)

prosecution's burden of proof and amounted to a failure by the trial court to fulfill its responsibility to instruct the jury on general principles of law closely and openly connected with substantial evidence at trial. (See *People v. Gutierrez* (2009) 45 Cal.4th 789, 824; *People v. Breverman* (1998) 19 Cal.4th 142, 162.) But the trial court is not necessarily required to instruct the jury about the effective date of the statute underlying the relevant charges. It does have such a responsibility to instruct the jury to make findings with respect to the alleged act in the atypical scenario where the date would necessarily increase the minimum and/or maximum sentences, but both parties agree that is not the case here. (See *People v. Valenti* (2016) 243 Cal.App.4th 1140, 1151–1152, 1175–1176.) Tapia still insists that while "the date of offense may not be an element, . . . [he] could not violate a code section that did not yet exist." Yet he fails to explain how this argument is distinguishable from his ex post facto claim, addressed *ante*. Even if it is, for the reasons already discussed we would conclude any error as to the theory or instructions was harmless under any applicable standard of prejudice. (*Chapman, supra*, 386 U.S. at p. 24; *People v. Watson* (1956) 46 Cal.2d 818, 836.)

b. *Sufficiency of the Evidence*

Tapia claims the jury's guilty finding on count 9 is not supported by substantial evidence. He makes one specific argument: the prosecution failed to prove "that the acts underlying [Tapia's] convictions on counts [3] and [9] occurred after the" statutory effective date. Insofar as Tapia is reiterating his ex post facto claims here, as the People suggest, we note that we discuss the merits of the claim *ante*. To the extent Tapia is contesting the sufficiency of the evidence, we are similarly unpersuaded. Jane's

testimony established that Tapia abused Jane Doe via oral copulation, and her testimony was supported by other evidence including Tapia's own statement that he committed several acts of sexual abuse substantially similar to the act alleged in count 9.⁷

D. *The Criminal Protective Order*

Tapia also challenges the criminal protective order issued at sentencing. He acknowledges that given the jury's verdict, the plain terms of section 136.2, subdivision (i)(1) direct the court to "consider issuing an order restraining the defendant from *any contact* with the victim" (Italics added.) But he argues that the specific requirements and prohibitions listed in the order—which are standard on the Judicial Council's CR-160 form for use under section 136.2—are overly broad. Specifically, Tapia contends that, except for two of them (par. Nos. 12 and 13), all of the items are overbroad because it is possible to "do any of the specified activities without contacting Jane." For example, he asserts that paragraph No. 14, "prohibiting [him] from coming within 100 yards of the victim is overly broad in that it is possible to be within 100 yards of the victim without actually contacting the victim."

The People respond by arguing that because there was no unauthorized sentence, Tapia forfeited any claim of error related to the criminal protective order by failing to object below. (See *Scott, supra*, 203 Cal.App.4th at p. 1309.) They also maintain that regardless of the forfeiture, the terms of the order were authorized and appropriate here.

⁷ Because we reverse count 3 on ex post facto grounds and do not find error with respect to count 9, Tapia has failed to show cumulative error. (See *People v. Hill* (1998) 17 Cal.4th 800, 844.)

Under the protective order's terms, Tapia "must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons," Jane Doe and her sister C.C.⁸ He cannot "attempt to or actually dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person." He "must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian" ⁹ Furthermore, he is permitted "no personal, electronic, telephonic, or written contact" with Jane and C.C., "no contact [with them] through a third party, except an attorney of record," and "must not come within 100 yards" of them. Additionally, Jane and C.C. "may record any prohibited communications made by" Tapia.

We agree that Tapia forfeited this argument by failing to object in the trial court. (See *Scott, supra*, 203 Cal.App.4th at p. 1309.) Regardless, Tapia's argument is not persuasive. In interpreting statutes, we begin by examining the language of the law so as to effectuate its purpose. (See *People v. Delarosaranda* (2014) 227 Cal.App.4th 205, 210.) Tapia would read section 136.2 as being limited to an order that prohibits *direct* contact with a victim. But this narrow construction conflicts with the Legislature's

⁸ Paragraph No. 8, which sets forth restrictions on firearms possession, is applicable to all restraining orders issued pursuant to section 136.2, subdivision (d).

⁹ Alongside paragraph No. 10 of the criminal protective order (CR-160) used by the court, provides a box to be checked if the "court finds good cause not to make the order in item 10." The box was not checked.

purpose in enacting the statute, which among other reasons was to ensure "the safety of the victim and his or her immediate family." (§ 136.2, subd. (i)(1).) In light of this purpose, we read the statute more broadly as authorizing orders that reasonably facilitate restrictions on contact with victims and their families. Thus, an order prohibiting Tapia from coming within 100 yards of Jane is an appropriate prohibition on "any contact," even though it is physically possible to be within such proximity without directly communicating. The same principle applies to the other prohibitions.

Tapia also argues that paragraph No. 10 is overbroad because, by prohibiting him from obtaining contact information for "protected persons or their family members," it necessarily restricts his ability to have appropriate contact with his own extended family. According to Tapia, this term deprives him of state and federal liberty and association interests. But we believe he reads the term "family members" in paragraph No. 10 too broadly. In precluding "action to obtain the addresses or locations of protected persons or their family members," paragraph No. 10 focuses on information that might reveal the location of protected persons and thus facilitate contact that would violate the protective order. Understood in this context, paragraph No. 10 refers to "family members" residing in the same location as a protected person and is thus narrowly tailored to achieve an important interest, i.e., the safety of the victims.¹⁰

¹⁰ We note that paragraph No. 10 also provides a "good cause" exception to the prohibition on taking any action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian. Because it is unnecessary to our decision, we decline to address the scope of this "good cause" exception.

Additionally, Tapia asserts the order must be modified to omit Jane's sister C.C. as a protected person because the jury did not convict Tapia on the counts related to her. He notes that "the Legislature has allowed post-conviction restraining orders only for victims." But Tapia ignores caselaw explaining that "the term 'victim' pursuant to section 136.2 criminal protective orders must be construed broadly to include any individual against whom there is 'some evidence' from which the court could find the defendant had committed or attempted to commit some harm within the household." (*People v. Race* (2017) 18 Cal.App.5th 211, 219 (*Race*); *People v. Beckemeyer* (2015) 238 Cal.App.4th 461, 466 ["victim" in § 136 for issuance of §136.2 protective order includes "any person against whom there is reason to believe a crime has been committed"].)

While the jury did not convict Tapia on the charges related to C.C. under a higher evidentiary standard, testimony at trial amounted to more than "some evidence" that C.C. was a victim of unlawful sexual acts entitled to protection under section 136.2, subdivision (i)(1). (See *Race, supra*, 18 Cal.App.5th at p. 219.) C.C. testified that when she was in second grade, Tapia began touching her breasts, vagina, and buttocks. He touched her on a regular basis. At least once a week when they were alone, he kissed her on the mouth with his tongue. During an incident in the pool, Tapia held her, squeezed her buttocks, and rubbed the insides of her thighs. He touched her vagina and breast over her clothing. During another incident, Tapia stood behind C.C., held her, and rubbed his groin against C.C.'s upper back area while his penis became erect. Accordingly, we reject Tapia's challenges and do not disturb the criminal protective order issued to protect Jane and C.C.

Finally, we also agree with both parties that there are clerical errors on the abstracts of judgment with regard to both the date of Tapia's conviction and the sentence. Because our disposition includes remand for resentencing, we decline to require the court to amend its prior abstract of judgment before it issues another following resentencing. But the clerical errors in item No. 1 (erroneous date of conviction in both indeterminate and determinate abstracts) and item No. 6(c) (erroneous sentence in the indeterminate abstract) should be corrected when the court issues the abstracts of judgment upon resentencing.

DISPOSITION

The judgment is reversed, and the matter is remanded to the trial court.

The trial court is directed to vacate the conviction and sentence for count 3, and to strike the order prohibiting visitation between Tapia and Jane Doe issued pursuant to section 1202.05. The court is further directed to resentence Tapia on the convictions for counts 4, 8, and 9, and to issue abstracts of judgment to the Department of Corrections and Rehabilitation correctly reflecting, among its other components, the sentence and date of conviction.

DATO, J.

WE CONCUR:

BENKE, Acting P. J.

HALLER, J.